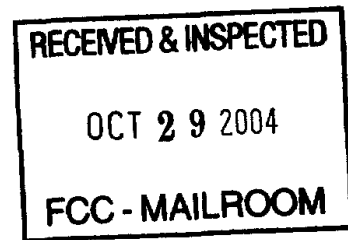


Federal Communications Commission
Office of the Secretary
445 Twelfth Street, SW, TW-A325
Washington, D.C. 20554



Comments in the Matter of:

Amendment of Section 73.202(b),
Table of Allotments,
FM Broadcast Stations.
(Cheyenne and Encampment, Wyoming)

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)
)
)
)
MB Docket No. 04-402
RM-11087

Comments submitted: October 28, 2004

Dear Sir or Madam:

1. Pursuant to 47 C.F.R. Sections 1.415 and 1.419, the parties of Dday (*FCC Account # 0371723108*), a qualified participant in the forthcoming FM Auction 37, strongly opposes the proposed amendment of the FM Table of Allotments, 47 C.F.R. Section 202(b) by Mountain States Radio, Inc., with respect to the communities listed below, as follows:

Channel Nos.

<u>City</u>	<u>Present</u>	<u>Proposed</u>
Encampment, Wyoming	-----	285C2

2. The parties of Dday.¹ are qualified to bid on the following allotment in the forthcoming FM Auction 37:

<u>City</u>	<u>Market</u>	<u>Channel/Class</u>
Saratoga, Wyoming	FM357	258A

3. Mountain States Radio, Inc. (Petitioner) is requesting an allotment of a FM station channel 285 Class C2 in Encampment, Wyoming. Encampment, Wyoming is approximately 18 miles south of Saratoga, Wyoming where Channel 258 Class A is being auctioned by the FCC in FM Auction 37 beginning November 3rd, 2004. Due to its close proximity, a Class C2 station located in Encampment, Wyoming would cause significant overlap of FM coverage into the market area of the Saratoga, Wyoming 258A allotment soon to be auctioned in FCC Auction 37. The parties of Dday are of strong opinion that an allotment of a FM station channel 285 Class C2 in Encampment, Wyoming would have a severe impact on the value and the commercial viability of the Saratoga, Wyoming FM357, channel 258A allotment soon to be auctioned in FCC Auction 37. The reasons are as follows:

¹ Don Day, Jr., Grant Kath, Kent Smith, et al

- a.) The economic viability of having TWO FM radio stations in this geographic area is extremely poor. As stated in the petitioner's request, Encampment, Wyoming had a 2000 U.S. Census population of 443 persons. In neighboring Saratoga, Wyoming a 2000 U.S. Census population of 1,726 persons is reported. The only other established community in this area is Riverside with a 2000 U.S. Census population of 59 persons. Therefore, according to 2000 U.S. Census figures, there are only 2,228 persons in the market area of Encampment, Saratoga and Riverside.
- b.) Neither community is currently served by a local aural transmission service, however, an FM allotment in either Saratoga or Encampment would serve BOTH communities. Two FM stations ARE NOT necessary.
- c.) An unfair competitive advantage would be given to petitioner over ALL PARTICIPANTS OF AUCTION 37 for the Saratoga, Wyoming allotment if the Encampment, Wyoming allotment is granted to petitioner. The addition of another FM station in a very small market would severely diminish the economic value and viability of the Saratoga, Wyoming allotment soon to be put out for FCC auction on November 3rd, 2004.
- d.) Since the economic value and viability of the Saratoga, Wyoming allotment would be severely diminished by the Encampment, Wyoming allotment. Dday and all other qualified bidders in Auction 37 would be unreparably harmed by a favorable decision for the petitioner. The timing of the proposed rule making by petitioner so close to the beginning of Auction 37 is suspect. Dday and other qualified bidders in Auction 37 have very little time to react and comment to petitioners request.
- e.) The parties of Dday question the sincerity of petitioner's intentions of providing quality radio service to Encampment, Wyoming. They may be merely planning simulcast broadcasts from an out of the area station or broadcast music only with no local news, weather or information.

Due to the fact that the public notice of the proposed rule making by Mountain States Radio, Inc. was released on October 25, 2004 and Auction 37 begins on November 3rd, 2004, Dday at this time cannot provide adequate engineering information in regards to this matter.

Dday requests expeditious action by the FCC to resolve this issue before the commencement of FCC FM Auction 37.

Sincerely,
Don Day, Jr.



Qualified Auction 37 participant (Dday, 0011304367)
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